

Nos. 19-1434, 19-1452, 19-1458

In The
Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

ARTHREX, INC., ET AL.,

Respondents.

**On Writs Of Certiorari To The
United States Court Of Appeals
For The Federal Circuit**

**BRIEF FOR AMICUS CURIAE NISKANEN CENTER
IN SUPPORT OF PETITIONER**

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INTEREST OF AMICUS CURIAE

The Niskanen Center is a nonprofit, nonpartisan 501(c)(3) public policy think tank working to protect private property rights, economic liberty, well-functioning markets, and to roll back regressive regulations which restrict freedom of exchange and increase inequality. Niskanen's longstanding interest in patents as a form of quasi-property has led it to support the Patent Trial and Appeal Board (PTAB) as a valuable mechanism in preserving private property rights.¹

Immersed as we are every day in a sea of patented items, it is easy to forget that each one of those items represents a denial of the most fundamental of all property rights: to do whatever we want with the things we own. If Smith invents a widget and sells it to Jones, it now belongs to Jones and, like anything else she owns, she has the right to do whatever she wishes with it, including making and selling as many identical widgets as she wants. But if Smith patents that widget, then Jones may not also make or sell those widgets. Thus, by definition, *patents eliminate peoples' fundamental right to do whatever they want with their own property.*

¹ Under this Court's Rule 37.2(a), all parties have consented to submission of this brief. Pursuant to Rule 37.6, Niskanen affirms that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution to fund the preparation or submission of this brief. No person other than Niskanen, or its counsel, made a monetary contribution to its preparation or submission.

The Framers did not lightly infringe on property rights; indeed, the Constitution shows the utmost respect for them. The Constitution allows patents to do this solely as part of a legitimate public policy tradeoff: depriving people of their property rights is warranted because patents provide the financial incentives for inventors to develop and commercialize new technologies that inure to everyone's benefit.

But when the U.S. Patent and Trademark Office (USPTO) improperly grants Smith a patent for his widget, it eliminates Jones' inherent right to do what she wants with that widget, *but without the corresponding public policy benefit*. By eliminating "bad patents" that do not fulfill their Constitutional purpose, the PTAB is restoring the public's fundamental right to do as they please with their own property.

For years, the PTAB's opponents have spun a legally untenable narrative based on the false premise that patents are deserving of the same protections as private property rights, and that PTAB's authority infringes on those rights. For example, an amicus brief filed by thirty-nine patent-owning inventors in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 138 S. Ct. 1365 (2018) argued that finding that patent rights are public rights would be a "dramatic transformation of the nature of the patent right, never contemplated nor debated in any legislative act. This statement signifies that hard-won and costly-to-obtain

private property remains in force only at the pleasure, whim, and discretion of governmental civil servants.”²

This is simply wrong. Patents are not “property”; they are a “public franchise”, a monopoly right created by law. As Congress emphasized in the Patent Act, patents merely have “*attributes* of personal property” (35 U.S.C. 261; emphasis added), and all such attributes are “subject to the provisions of this title.” *Id.* “This provision qualifies any property rights that a patent owner has in an issued patent, subjecting them to the express provisions of the Patent Act.” *Oil States Energy Services, LLC v. Greene’s Energy Group, LLC*, 138 S. Ct. 1365, 1375 (2018). In short, patents are *not* private property in the sense of being an inalienable right, and instead carry with them only whatever rights Congress grants and subject to whatever conditions Congress imposes, one of which is review by the PTAB.³

There are millions of such patents; last year alone, the USPTO added almost 400,000 to their number.⁴

² <https://www.scotusblog.com/wp-content/uploads/2017/09/16-712-tsac-Affected-Patent-Owners.pdf>.

³ Respondent Arthrex has claimed that the Federal Circuit’s remedy of removing employment protections from PTAB judges violates “bedrock due process principles” which require, *inter alia*, “neutral decisionmakers”, and that tenure protections for administrative judges are necessary “to ensure that impartiality.” Arthrex Petition for Certiorari, pp. 14-15. Niskanen agrees that patent rights are entitled to some due process protections, but Arthrex cited no case supporting the idea that tenure protection is a necessary element of an impartial administrative adjudicatory process, and Niskanen is unaware of any.

⁴ https://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm.

Congress expressly designed the PTAB to eliminate mistakes in the patent process, and Niskanen submits this brief to explain how the PTAB fulfills this purpose by supplementing the efforts of patent examiners, enhancing adjudication of patent disputes, and reducing abuse of the patent system. As this Court noted recently, in creating the PTAB’s inter partes review (IPR) process, Congress “sought to weed out bad patent claims efficiently.” *Thryv, Inc. v. Click-to-Call Technologies*, 140 S. Ct. 1367, 1374 (2020).

Since its inception, the PTAB has been just such an efficient mechanism, benefitting the economy by removing unnecessary hindrances and saving billions of dollars in litigation costs. It is a well-designed safeguard preventing bad patents from interfering with all Americans’ economic liberty and property rights.



SUMMARY OF ARGUMENT

The Constitution grants Congress the authority to issue “exclusive Right[s]” (*i.e.*, patents) to inventors, and patents serve a legitimate purpose by providing incentives to develop and commercialize new technologies. This legal grant of exclusivity with “attributes of personal property” prevents free-riding in the form of imitation which could reduce the returns necessary to bring a given innovation into creation. Patents are the primary form of public subsidy used to overcome this market failure (although not all inventions require patent exclusivity to be brought into production).

But a patent is not “property” in the conventional sense of being an inalienable right; no one would claim that there is such a right to a patent. Rather it is a federal grant of temporary monopoly power.⁵ That monopoly power means that every patent the USPTO grants comes at the expense of everyone else’s economic liberty and property rights. And it would be naive to assume patent examiners get it right every time; as with all systems, patent examiners make mistakes and “[s]ometimes . . . bad patents slip through.” *SAS Institute v. Iancu*, 138 S. Ct. 1348, 1353 (2020).

Such “bad patents” thus necessarily infringe on Americans’ property rights for no valid purpose, and great vigilance should be exercised to ensure that this happens as infrequently as possible. Given the stakes, it is common sense to have an institution like the PTAB to double-check the work of patent examiners and reevaluate whether the USPTO has properly granted a public franchise. Put another way, the PTAB is a safeguard against erroneous administrative actions that infringe on economic liberty and property rights.

The PTAB’s approximately 260 administrative patent judges supplement the work of the USPTO’s 9,600 patent examiners. Those patent examiners are given, on average, just 19 hours to examine a patent. Research suggests that increasing the time allocated to

⁵ Daniel Takash & Brink Lindsey, “Why Intellectual Property is a Misnomer”, Niskanen Center, September 2019. Available at https://www.niskanencenter.org/wp-content/uploads/2019/09/LT_IPMisnomer-2-1.pdf.

patent examiners would yield significant welfare gains, but absent such a policy change, the PTAB's *ex post* review helps ensure the integrity of the patent system. Since its creation in 2012, the PTAB has instituted over 6,000 proceedings, of which approximately 2,863 were settled and 3,414 were completed. Of the completed reviews, 2,114 invalidated all claims, 627 had mixed outcomes, and 673 found all claims to be valid.⁶

This highly efficient process reduces the deadweight costs of those “bad patents” in three ways. It benefits the economy (and individual liberty) as a whole by eliminating baseless restraints on private enterprise. It has saved billions of dollars in litigation costs; litigating patent claims in federal courts costs millions of dollars; in contrast, the median cost of an IPR proceeding is estimated at \$275,000, with the cost rising to about \$350,000 if the IPR decision is appealed. And the IPR process is especially valuable as a means of checking the abusive antics of “patent trolls”, *i.e.*, “‘somebody who tries to make a lot of money off a patent that they are not practicing and have no intention of practicing and . . . [have] never practiced.’” *Overstock.Com, Inc. v. Furnace Brook, LLC*, 420 F.Supp.2d 1217, 1218 (D. Ut. 2005) (internal quotations omitted).

⁶ https://www.uspto.gov/sites/default/files/documents/trial_statistics_20200930.pdf.

In short, the PTAB is a better, faster, cheaper system of correcting inevitable mistakes made in the patent application process.



ARGUMENT

I. A PATENT IS A PUBLIC RIGHT, NOT PRIVATE PROPERTY

The Constitution grants “Congress [the] power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” U.S. Const., Art. I, § 8. It is thus Congress’s prerogative to make laws governing what qualifies for a patent monopoly, and procedures for making this determination. But even if “patents . . . have the attributes of personal property” (35 U.S.C. 261) this does not change the fact that they, like other public rights and franchises, are “subject to the provisions” (*id.*) of the laws which create them and these “attributes” of personal property are distinctly inferior to property rights which are not the gift of the federal government.

The patent system’s grant of exclusivity benefits the U.S. economy by providing incentives for inventors to develop and commercialize new technologies. “If a new idea is freely appropriable by all, if there exist communal rights to new ideas, incentives for developing such ideas will be lacking. The benefits derivable from these ideas will not be concentrated on their

originators. If we extend some degree of private rights to the originators, these ideas will come forth at a more rapid pace.” Harold Demsetz, “Toward a Theory of Property Rights,” *The American Economic Review*, Vol. 57, No. 2, p. 359 (1967).⁷

Historically, public rights or public franchises were “but means to carry out public ends; they originated with the state rather than the individual, and even in private hands they amounted to mere trusts of civil power to be exercised for the public benefit.” Caleb Nelson, “Adjudication in the Political Branches,” 107 *Columbia Law Review*, p. 559, 567-68 (2007). From the earliest days of the Republic, patents were understood to be a government grant designed to achieve a specific policy outcome, and not property themselves. In the words of James Madison, “Monopolies tho’ in certain cases useful, ought to be granted with caution, and guarded with strictness agst. abuse . . . [patents and copyrights] are considered as a compensation for a benefit *actually* gained to the community, as a purchase of property which the owner might otherwise withhold from public use.”⁸ Thomas Jefferson put it even more succinctly: “[I]nventions . . . cannot in nature be a subject of property.”⁹

⁷ Available at https://econ.ucsb.edu/~tedb/Courses/Ec100C/Readings/Demsetz_Property_Rights.pdf.

⁸ James Madison, “Detached Memoranda,” c.a. 31 January 1820, National Archives (emphasis in original). Available at <https://founders.archives.gov/documents/Madison/04-01-02-0549>.

⁹ Thomas Jefferson to Isaac McPherson, August 13, 1813.

In granting a patent to achieve this policy goal, however, the government necessarily restricts everyone else’s economic liberty, because Smith’s patent eliminates Jones’ right to replicate Smith’s widget design:

[A] patent is a form of government regulation that *restrains* members of the public in the exercise of natural rights to liberty and property—rights that *do* come from nature and *are* protected by the common law. To grant a patent is thus to take rights of immense value from the public and transfer them to the patentee . . . a grave act, to be done, if at all, only after serious deliberation and only for the utilitarian purpose of increasing the common stock of knowledge and the advantages of technology.

Paul Clement, “Patent Rights v. Property” (2019), p. 1 (emphasis in original).¹⁰

This Court has always recognized that a patent benefits the patentee at the expense of the general public: “[I]ssuing . . . patents . . . take[s] from the public rights of immense value, and bestow[s] them upon [a] patentee. [This] take[s] from the people this valuable privilege, and confer[s] it as an exclusive right upon the patentee.” *United States v. Bell Telephone*, 128 U.S. 315, 370 (1888). And for more than 150 years, this

Available at <https://founders.archives.gov/documents/Jefferson/03-06-02-0322>.

¹⁰ Available at https://static.wixstatic.com/ugd/a0a494_53e5dd5e9ccd42899ffe45ec608f6b80.pdf.

Court has acknowledged that the exclusive right to an invention is solely the creation of the patent, and does not arise from the invention itself: “The inventor of a new and useful improvement *certainly has no exclusive right to it*, until he obtains a patent. This right is created by the patent.” *Gayler v. Wilder*, 51 U.S. 477, 493 (1850) (emphasis added).

[T]he right of property which a patentee has in his invention, and his right to its exclusive use, is derived altogether from these statutory provisions; and this court have always held that an inventor has no right of property in his invention, upon which he can maintain a suit, unless he obtains a patent for it, according to the acts of Congress; and that his rights are to be regulated and measured by these laws, and cannot go beyond them.

Brown v. Duchense, 60 U.S. 183, 195 (1856).

Most recently, this Court reiterated this principle and confirmed the PTAB’s role in implementing it: “the decision to grant a patent is a matter involving public rights—specifically, the grant of a public franchise. Inter partes review is simply a reconsideration of that grant, and Congress has permissibly reserved the PTO’s authority to conduct that reconsideration.” *Oil States Energy Services, LLC v. Greene’s Energy Group, LLC*, 138 S. Ct. 1365, 1373 (2018).

II. THE PTAB IS AN ESSENTIAL PART OF THE U.S. PATENT SYSTEM

Any well-functioning patent system must evaluate the quality of a given patent to ensure that this process does not turn into a free-for-all, giving away public franchises that do not promote the progress of science and the useful arts while limiting the rights of individuals, firms, or other inventors. Thomas Jefferson expressed this sentiment in his criticism of other patent systems:

[G]enerally speaking, other nations have thought that these [patent] monopolies produce more embarrassment than advantage to society . . . Considering the exclusive right to invention as given not of natural right, but for the benefit of society, *I know well the difficulty of drawing a line between the things which are worth to the public the embarrassment of an exclusive patent, and those which are not.*¹¹

As Jefferson well understood, it can be difficult to determine whether a given patent will be “for the benefit of society.” Patent examiners are on the front lines of such decisions, but they are not infallible, and the IPR allows a petitioner to request cancellation of one or more claims in a patent (on limited grounds). 35 U.S.C. 311(b).

¹¹ Thomas Jefferson to Isaac McPherson, August 13, 1813 (emphasis added); available at <https://founders.archives.gov/documents/Jefferson/03-06-02-0322>.

A. Patent Examiners Make Mistakes

Bad patents (those which contain one or more invalid claims) are nothing new: “Implements and utensils, as old as the civilization of man, are daily, by means of some ingenious artifice, converted into subjects for patents . . . Impositions of this sort, are of common occurrence, and will continue to multiply while the door to imposture is left open and unguarded.” *Thompson v. Haight*, 23 F. Cas. 1040, 1041 (Cir. Ct. SDNY, 1826).

Recognizing that, as with any system, the USPTO and its staff are not perfect, Congress designed the PTAB as a quality control tool because it was “concerned about overpatenting and the diminishment of competition.” *Thryv, Inc. v. Click-to-Call Technologies*, 140 S. Ct. 1367, 1374 (2020). And the unfortunate reality is that despite the USPTO’s best efforts, “sometimes . . . bad patents slip through.” *SAS Institute v. Iancu*, 138 S. Ct. 1348, 1353 (2020).

The sheer size of the U.S. patent system boggles the mind; as of 2018, there were more than three million patents in effect. World Intellectual Property Organization, “World Intellectual Property Indicators 2019—Patents,” p. 20.¹² In 2019, the PTOs 9,600 examiners granted over 391,000 patents. United States Patent and Trademark Office, “Fiscal Year 2019 Performance and Accountability Report,” and “U.S.

¹² https://www.wipo.int/edocs/pubdocs/en/wipo_pub_941_2019-chapter1.pdf.

Patent Statistics Chart Calendar Years 1963-2019.”¹³ While USPTO’s expansion and increased patenting more broadly are signs that the USPTO is a trusted institution, this does not mean that the current system is perfect. It is inevitable that mistakes will be made, and unfortunately current USPTO policies make it more likely that patents will be granted in error despite its best efforts.

The average patent examiner is granted 19 hours to examine a patent, with the average time granted *decreasing* for more skilled examiners. Michael D. Frakes and Melissa F. Wasserman, “Is the Time Allocated to Review Patent Applications Inducing Examiners to Grant Invalid Patents? Evidence from Micro-Level Application Data,” NBER Working Paper 20337, July 2014.¹⁴ While there is no “magic number” to determine the right amount of time to properly examine a patent, it is clear that were examiners to be given more time for their herculean task the patent system would be more efficient. Research has found that simply doubling the amount of time given to patent examiners would produce a savings in litigation expenses of \$527 million. Michael D. Frakes & Melissa F. Wasserman, “Irrational Ignorance at the Patent Office”, *Vanderbilt Law Rev.*, Vol. 72, No. 3, p. 1002 (2019).

¹³ <https://www.uspto.gov/sites/default/files/documents/USPTOFY19PAR.pdf> and https://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm.

¹⁴ https://www.nber.org/system/files/working_papers/w20337/w20337.pdf#page=9.

Given the constraints patent examiners face and the high volume of patent applications and issuances every year, mistakes will be made. Congress created the PTAB to help correct this, and it is impossible to ignore the shortcomings in the patent process when considering PTAB's role.

B. The PTAB is an Economically Efficient Means of Eliminating Bad Patents

1. The PTAB Saves Millions of Dollars in Litigation Costs

Litigation is expensive, and patent litigation is no exception. A 2015 survey found that in patent litigation where between \$1 and \$10 million was at stake, the costs of litigation were about \$1 million through discovery and \$2 million through the final disposition. These respective costs increase to \$2 and \$3 million when \$10-\$25 million is at risk. Above this, over \$5 million can be spent by the time a final disposition is reached. Anne S. Layne-Farrar, "The Cost of Doubling Up: An Economic Assessment of Duplication in PTAB Proceedings and Patent Infringement Litigation", *Landslide*, Vol. 10, No. 5, p. 1 (2018).¹⁵

By comparison, the limited scope of the IPR process and the efficient nature of the proceedings means litigation costs are significantly lower. The same 2015 survey estimated that the median cost of an IPR

¹⁵ https://www.crai.com/sites/default/files/publications/The_Cost_of_Doubling_Up_An_Economic_Assesment_of_Duplication_in_PTAB_proceedings_Landslide_May_2018_Layne_Farrar.pdf.

proceeding was around \$275,000. Even with the costs of appeal, the median cost was around \$350,000. *Id.* at 1. One estimate determined that from 2012 to 2017, the IPR process saved an estimated \$2.3 billion in costs associated with more traditional forms of patent litigation. Josh Landau, “Inter Partes Review: Five Years, Over \$2 Billion Saved,” *Patent Progress*, September 14, 2017.¹⁶

IPR is fast in addition to being cheap. By law, a “final determination [must] be issued not later than 1 year after the date on which the Director notices the institution of a review,” with an extension of not more than six months (although the Director can “adjust” these dates if other parties are joined to the proceeding). 35 U.S.C. 316(a)(11). By comparison, a patent trial can take two years to begin after the filing of an initial complaint, and a *Markman* ruling (where a district court determines the meaning of disputed words in a patent claim), can take between 13 and 20 months. Layne-Farrar, “The Cost of Doubling Up: An Economic Assessment of Duplication in PTAB Proceedings and Patent Infringement Litigation”, *Landslide*, Vol. 10, No. 5, p. 2.

Some people, including notable figures like Randall Rader, former Chief Judge of the Federal Circuit, have described the PTAB as a “Patent Death Squad.”¹⁷

¹⁶ <https://www.patentprogress.org/2017/09/14/inter-partes-review-saves-over-2-billion/>.

¹⁷ <https://www.law360.com/articles/567550/ptab-s-death-squad-label-not-totally-off-base-chief-says>.

This rhetoric, deployed by the PTAB’s critics (some of whom have a vested interest in preserving their ability to leverage patents of suspect quality) is hyperbole at best. To begin, as important as the PTAB is, it is rarely employed relative to the scale of the U.S. Patent System. According to the USPTO, from September 16, 2012 to September 30, 2020, 12,147 total petitions were filed, including 11,299 petitions for IPR. Of these, 6,228 reviews were instituted. Approximately 2,863 of these proceedings were concluded via settlement. Of the reviews that proceeded to a final written decision, 2,114 petitions invalidated all claims, 627 had mixed outcomes, and 673 found all claims to be valid.¹⁸ Considering the hundreds of thousands of patents granted every year, having the PTAB subsequently invalidate one is an extraordinarily rare outcome.

When comparing the success of PTAB rulings compared to those of district courts, research has found that “[t]he PTAB’s [APJ judge’s] expertise . . . is cautiously rewarded by a high affirmance rate advantage on fact-specific issues.” Matthew G. Sipe, “Experts, Generalists, Laypeople—and The Federal Circuit”, *Harvard Journal of Law & Technology*, Vol. 32, No. 2, p. 575 (2019). A study of Federal Circuit patent appeals from October 1, 2014 to September 30, 2016 found that of 703 PTAB appeals on validity findings, 91.2% (641) of decisions were affirmed. *Id.* at 610. By comparison, of 264 patent appeals from district courts, 84.9% (224) were affirmed. *Id.* at 610. The PTAB’s decisions thus

¹⁸ https://www.uspto.gov/sites/default/files/documents/trial_statistics_20200930.pdf.

fare well in the Federal Circuit, validating the success of the IPR process with respect to evaluating patent quality. Indeed, the “data suggest[] that the Federal Circuit affirms findings made by the PTAB reliably more often than findings made by district court judges.” *Id.* at 578.

2. The PTAB is a Useful Tool Against Anticompetitive Patent Trolling

If the PTAB’s benefits were limited to providing a speedy and cheap resolution to issues which would otherwise be litigated in district court, it would still be a worthwhile institution. However, the PTAB’s benefits extend to the economy at large, because the patent’s public franchise necessarily limits everyone else’s property rights.

Patent assertion by non-practicing entities (NPEs) can only be described as shakedown. NPE’s with portfolios of dubious quality patents assert their patents against defendants of all shapes and sizes, and NPEs imposed costs totaling around \$29 billion in 2011 alone. James Bessen and Michael J. Meurer, “The Direct Costs From NPE Disputes,” *Cornell Law Review*, Vol. 99, p. 387 (2014). While “trolling” most commonly refers to behavior by NPEs, they are not alone in asserting patents of dubious quality for anticompetitive purposes.¹⁹ Such entities are also referred to as Patent

¹⁹ For a discussion of the complicated dynamics of “patent trolling” and other bad actors abusing the patent system, see Mark A. Lemley and A. Douglas Melamed, “Missing the Forest

Assertion Entities (PAEs), which the Federal Trade Commission described as “businesses that acquire patents from third parties and seek to generate revenue by asserting them against alleged infringers.” Federal Trade Commission, “Patent Assertion Entity Activity,” October 2016, p. 1.²⁰ A 2013 report from the Obama Administration identified several costs associated with frivolous patent assertion, including “Direct costs to firms that practice patents,” “Private costs of lost opportunities to commercialize technology,” and “Social costs of reduced innovation.” Executive Office of the President, “Patent Assertion and U.S. Innovation,” June 2013, pp. 9-10.²¹

Patent trolling is significantly more damaging than other forms of frivolous litigation. A defamation claim intended to curtail free speech will not result in an injunction limiting a defendant’s further speech. A plaintiff who makes a frivolous slip-and-fall claim cannot ask the court to enjoin the further operation of a store. This Court has appropriately limited the scope of patent injunctions so they are in line with the standards applied to traditional injunctions, *Ebay Inc. et al. v. Mercexchange, L.L.C.*, 547 U.S. 388, 390 (2006), but the potential for bad patents claims to “diminish[]

for the Trolls,” 113 *Columbia Law Review*, p. 2117 (2013). Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2269087.

²⁰ Available at https://www.ftc.gov/system/files/documents/reports/patent-assertion-entity-activity-ftc-study/p131203_patent_assertion_entity_activity_an_ftc_study_0.pdf.

²¹ Available at https://obamawhitehouse.archives.gov/sites/default/files/docs/patent_report.pdf.

competition” (*Thryv, Inc. v. Click-to-Call Technologies*, 140 S. Ct. 1367, 1374 (2020)) raises the stakes, making it necessary to ensure that patents are meritorious and deserving of the monopoly protections granted them.

Without question, not every institution which has had a patent claim invalidated is an NPE or patent troll. However, that such entities exist makes it clear that ex-post review of patent grants is an effective means of avoiding the vexatious litigation which is the linchpin of their business model.

◆

CONCLUSION

For the reasons given herein, patent rights are not “private property”, but rather temporary monopoly rights granted by the federal government, subject to whatever conditions (such as the PTAB) that Congress imposes. And the PTAB is an extremely efficient mechanism for eliminating “bad patents” that necessarily infringe on the property rights and economic liberties of all Americans.

Respectfully submitted,

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